

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC VERIFIED JOINT APPLICATION)	
OF EASTERN ROCKCASTLE WATER)	
ASSOCIATION, INC. AND KENTUCKY-)	CASE NO.
AMERICAN WATER COMPANY FOR THE)	2017-00383
TRANSFER OF CONTROL AND ASSETS)	

ORDER

On November 6, 2017, Kentucky-American Water Company (“Kentucky American”) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for an indefinite period to a portion of Kentucky American’s response to Commission Staff’s First Request for Information, Item 1 (“Staff’s First Request”).

Kentucky American argues that, pursuant to KRS 61.878(1)(c)(1), the Kentucky Open Records Act exempts from disclosure documents that are recognized as confidential or proprietary and which if openly disclosed would permit an unfair commercial advantage to competitors. Kentucky American asserts that in response to Staff’s First Request, Item 1, it provided a copy of an evaluation performed by the CDC, which is a committee comprised of Kentucky American and American Water Works Company (“American Water”) personnel that evaluates and approves acquisition opportunities. The evaluation shows the precise framework by which Kentucky American and American Water assess potential acquisitions. According to Kentucky American, if the evaluation was publicly disclosed, owners of water and wastewater systems could manipulate the negotiation process based on their knowledge of the type

of information that Kentucky American and American Water deem material with respect to acquisitions. Kentucky American further states that the Commission granted confidential protection to the same CDC document in the 2016 proceeding approving Kentucky American's acquisition of Ridgewood's wastewater assets.¹

Kentucky American also provided its Amended and Restated Authorization and Limitation of Corporate Authority ("Corporate Authority") in response to Staff's First Request, Item 1. Kentucky American asserts that the Corporate Authority document is a confidential internal procedure delineating the delegation of authority, and is the product of extensive time and money invested by Kentucky American's parent company, American Water. Kentucky American further states that the Corporate Authority document consists of commercial information that is confidential and proprietary, the disclosure of which would unfairly advantage both American Water's and Kentucky American's competitors. Kentucky American argues that if competitors have free access to information that American Water has expended substantial resources to develop, the competitors would derive an unfair commercial advantage. Finally, Kentucky American asserts that the Commission has previously granted confidential protection to similar Kentucky American policies and procedures.²

Having considered the petition and the material at issue, the Commission finds that the designated information contained in response to Staff's First Request, Item 1, is generally recognized as confidential or proprietary; it therefore meets the criteria for

¹ Case No. 2016-00222, *Joint Application of Classic Construction, Inc. and Kentucky-American Water Company for the Transfer of the Ridgewood Wastewater Assets* (Ky. PSC Sept. 15, 2016).

² Case No. 2012-00520, *Application of Kentucky-American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year* (Ky. PSC April 17, 2014).

confidential treatment, and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Kentucky American's petition for confidential protection for the designated information in response to Staff's First Request, Item 1, is granted.

2. The designated information contained in response to Staff's First Request, Item 1, shall not be placed in the public record or made available for public inspection until further Order of this Commission.

3. Use of the material in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

4. Kentucky American shall inform the Commission if the material in question becomes publicly available or no longer qualifies for confidential treatment.

5. If a non-party to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Kentucky American shall have 20 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Kentucky American is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 20 days following an Order finding that the material no longer qualifies for

confidential treatment in order to allow Kentucky American to seek a remedy afforded by law.

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By the Commission



ATTEST:



Executive Director

Case No. 2017-00383

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